IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3217 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHILPABEN GOPALJI MAKWANA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3217 of 2002

MR BIPIN P JASANI for Petitioner No. 1

MR PR ABICHANDANI AGO for Respondent No. 1

MR DEEPAK DAVE for MR AD OZA for Respondent No. 2

DR YOGINI MAJMUDAR, Principal, Respondent No. 3 school present in person

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CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 20/06/2002

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner Ms.Shilpa Gopalji Makwana belonging to OBC has filed this petition and prayed that the impugned decision / order dated 15.1.2002 Annexure-M be quashed and set aside and it may be declared that the petitioner is entitled and eligible to appear in Std.12 HSC examination in Vocational Stream in March, 2002, held by the respondent No.2-Board be further directed not to restrain the petitioner from appearing in Std.12 HSC Examination in Vocational Stream in March, 2002.

#. Initially, on 11.3.2001 my learned Brother A.R.Dave, J. ordered to issue notice returnable on 13.3.2002 and Mr.Deepak Dave waives service of notice for respondent No.2 Direct Service was permitted respondent Nos. 1 and 3.

#. On 14.3.2002, learned counsel for the parties Mr.Jasani for the petitioner, Mr.Deepak Dave appearing for learned advocate Mr.A.D.Oza on caveat for respondent No.2 were heard and after hearing them following order was passed by my learned Brother A.R.Dave, J. :-

"Rule.

At the request of the learned advocates, the reasons for grant of interim relief are not recorded.

Interim relief is granted to the effect that the petitioner shall be permitted to appear at the HSC (Std.XII) Examination in Vocational Stream to be held in March, 2002. However, the result of the petitioner shall be kept in a sealed cover.

Looking to the facts of the case, the petition shall be finally heard on 17.6.2002.

Direct service is permitted today.

Sd/-
(A.R.Dave, J.)"

#. In pursuance of the aforesaid order, the petitioner appeared in the HSC (Std.XII) Examination in Vocational Stream. However, her result was not declared along with the result of the other students, which was declared by the Board on 3.6.2002 and the result of the petitioner

was kept in sealed cover as per the interim order passed by the learned Single Judge of this court.

#. When this matter was listed on 17.6.2002 before this court it was ordered to be placed on 20.6.2002 i.e. today and the respondent-Board was directed to produce the result in sealed cover.

#. Accordingly, learned counsel Mr. Deepak Dave appearing for Mr. A.D.Oza for respondent No.2-Board produced the result of the petitioner in sealed cover, which was opened in presence of all i.e. Mr.Jasani, learned counsel for the petitioner, Mr.P.R.Abichandani, learned AGP for respondent No.1, Mr.Deepak Dave for respondent No.2-Board and Ms.Majmudar, Principal, Kanya Vinay Mandir Sanskar Tirth, respondent No.3 appearing in person. The result shows that the petitioner got 81.60% marks. The photostat copy of the said result of the petitioner is ordered to be taken on record and the original marks sheet is ordered to be handed over to Mr.Deepak Dave, learned counsel for respondent No.2-Board in a sealed cover with a direction to declare the result of the petitioner forthwith.

#. At this stage, Mr.Dave tried to submit that the petitioner was not entitled to appear in the examination, therefore, her result should not be allowed to be declared.

#. It clearly appears from the said order passed by the learned Single Judge while admitting this matter that at the request of the learned counsel for the parties, the learned Judge has not passed a reasoned order while granting interim relief. Once interim relief is granted that means the petition was allowed. In fact, no other prayer was made in the petition except directing the respondent Board to permit the petitioner and once that permission is granted the impugned decision / order at Annexure-M stood automatically quashed. However, no formal order was passed, therefore, at this stage, by finally disposing of this matter, the impugned decision and action is quashed in terms of the interim order dated 14.3.2002.

##. Once that decision is quashed then there is no option for this court but to direct the respondent-Board to finally declare the result of the petitioner by which she has obtained as many as 81.60% of marks. The Board shall declare the result forthwith. Rule is made absolute with no order as to costs. This order is passed in open court, therefore, result of the petitioner be

declared latest by 21.6.2002.

(B.J.Shethna, J.)

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